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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,550	03/29/2004	Craig Issod	ISS1.002	1379

3775 7590 04/21/2005  
ELMAN TECHNOLOGY LAW, P.C.  
P. O. BOX 209  
SWARTHMORE, PA 19081-0209

EXAMINER
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JOYCE, HAROLD

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	Application No.	Applicant(s)	
	10/811,550	ISSOD, CRAIG	
	Examiner	Art Unit	
	Harold Joyce	3749	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Harold Joyce. (3) Michael Kahn.  
 (2) Jerry Elman. (4) \_\_\_\_\_

Date of Interview: 14 April 2005.

Type: a) ☐ Telephonic b) ☐ Video Conference  
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
 If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: 1 (proposed).

Identification of prior art discussed: Seifert and Bayley.

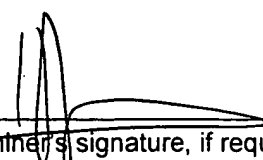
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The arguments were limited to paragraph 5 in the last Office action because, as written, Seifert in view of Bayley makes claim 1 unpatentable. An argument that the flange of Seifert is tiny is unpersuasive because this will not preclude the liner from being made adjustable in view of the teaching of Bayley. Note, one cannot show non-obviousness by attacking the references individually where the rejection is based on a combination of references.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 \_\_\_\_\_  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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**ELMAN TECHNOLOGY LAW, P.C.****PATENT, TRADEMARK, COPYRIGHT & INTERNET LAW**

406 Yale Avenue P.O. Box 209

Swarthmore, PA 19081-0209 U.S.A.

Phone: 610-892-9942 Email: gerry@elman.com eFax: 925-226-4995

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To: GAU 3749 Examiner Harold Joyce

From : Gerry J. Elman

Company : USPTO

Company : Elman Technology Law, P.C.

Fax Number : 15712730087

Fax Number : 925-226-4995

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Subject :

Pages including cover page: 5

Date : 4/13/2005

**MESSAGE**

Please deliver to Examiner Harold Joyce, GAU 3749

Response 01, ISS1.002  
Application No. 10/811,550

## CLAIM AMENDMENTS

1. (currently amended) A flue liner insert comprising four individual components of sheet material, each component having a cross section that is generally L-shaped with an altered corner, the components together forming a vertical flue passage of substantially constant cross sectional area throughout the length of said vertical flue passage, each component comprising adjustable fastening means such that each component is independently adjustable in position with respect to the other components.
2. (original) The flue liner insert of claim 1, wherein the flue liner insert further comprises one or more placement tabs extending at a predetermined height of the flue liner insert.
3. (original) The flue liner insert of claim 2, wherein the upper portion of the flue liner insert has at least one ventilation hole therein.
4. (original) A method of using a flue liner insert of claim 3 to extend and terminate a chimney having an existing flue tile at its top, comprising:
  - a) Inserting the flue liner insert into the existing flue tile at a depth predetermined by the location of a placement tab; and
  - b) Attaching a chimney cap to the upper end of the flue liner insert.
5. (original) A method of using a flue liner insert of claim 2 to extend a chimney having an existing flue tile at its top, comprising:
  - a) Inserting the flue liner insert into the existing flue tile at a depth predetermined by the location of a placement tab; and
  - b) Placing an extending flue tile over the flue liner insert such that it is directly or indirectly supported by the existing flue tile.
6. (canceled)
7. (canceled)
8. (canceled)

*Gerry Elman*  
*Michael Kuhn*

Response 01, ISS1.002  
Application No. 10/811,550

## REMARKS

This is a response to the Office Action of December 15, 2004. This response is submitted on XXXX XX, 2005 accompanied by a petition for a one-month extension of time and the requisite small entity fee.

Applicant currently amends claim 1 to further clarify the inventive subject matter. Applicant cancels claims 6-12, and also cancels claim 17. Claims 2-5 and claims 13-16 are in their original form, but are dependent on the currently amended claim 1.

It is submitted that the claims presented herein overcome the rejections of the first office action. The currently amended claim 1 is based on the application as filed, and on information and belief, Applicant certifies that no new matter has been added to this application.

The Examiner has cited Bayley (US Patent 850,126) against claim 1 as filed. Applicant points out that a fundamental aspect of the device disclosed in Bayley is that it does not form a flue passage of constant size throughout the length of the passage. As can be seen in figure 1 of Bayley, the device tapers inward to form a smaller passage at the top of the device, as compared with the bottom of the device. Applicant's claim 1 has been modified to emphasize that distinction. The Bayley device is not suitable for joining two ceramic flue tiles in the way that can be easily achieved with Applicant's invention. Furthermore, it is not designed for fitting inside a flue tile, and does not have the altered corners that are very beneficial for a flue liner insert that goes inside of a flue tile. As can be seen in figure 1 of Bayley, the device fits on the outside of a chimney.

The Examiner has cited Perry (US Patent 5,025,712) against claims 1-7 as filed. Applicant points out that a fundamental aspect of the device disclosed in Perry is that it is a chimney cover, and not a flue liner insert as is the invention disclosed by Applicant. The device disclosed by Perry can not be used to join two flue tiles to extend a chimney. Furthermore, the mounting band member disclosed by Perry is only adjustable in one dimension, whereas Applicant's invention provides more flexibility by accommodating adjustment in two dimensions.

The Examiner has cited Seifert (US Patent 1,415,199) in view of Bayley against claims 1,2 and 5-9 as filed. Applicant points out that the combination of references would be non-functional because the device disclosed by Seifert does not have sufficient overlap on each of its components to accommodate the adjustable fastening means of Bayley. The Seifert reference teaches that the components must be cut and bent into the desired form for a particular chimney (Page 1, line 105).

The Examiner has cited Perry in view of Wilhite (US Patent 2,830,525) against claims 12-17 as filed. Applicant points out that the device of Wilhite, even if combined with Perry, is unsuitable for joining two flue tiles. Furthermore, the device of Wilhite has no adjustability, as is provided by Applicant's invention.

## CONCLUSION

The Examiner is respectfully requested to reconsider the rejections in view of the claim amendments herein and the remarks above. A notice of allowability is earnestly solicited.